

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DAVON LEE and PAUL GARRETT,

24 CIV 00168 (PMH)(JCM)

Plaintiff,

- against -

ANSWER

ROBERT BUDDE, JUSTIN LARCHEVESQUE and
DANIELLE LONG,

Defendants.
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Defendants, JUSTIN LARCHEVESQUE and DANIELLE LONG, by their attorneys
HODGES WALSH & BURKE, LLP, as and for an Answer to plaintiffs' Complaint, upon
information and belief, state the following:

FIRST: Deny knowledge or information sufficient to form a belief as to the
allegations contained in paragraph "1" of the plaintiffs' Complaint.

NATURE OF THE CASE

SECOND: Deny each and every allegation contained in paragraphs "2" and "3" of
the plaintiffs' Complaint.

PARTIES

THIRD: Deny knowledge or information sufficient to form a belief as to the
allegations contained in paragraphs "6", "7" and "8" of the plaintiffs' Complaint.

FOURTH: Deny knowledge or information sufficient to form a belief as to the
allegations contained in "11" of the plaintiffs' Complaint and refer all questions of law to
this Honorable Court.

MATERIAL FACTS

FIFTH: Deny knowledge or information sufficient to form a belief as to the allegations contained in paragraphs “14”, “17”, “21”, “21”, “26”, “27”, “28”, “29”, “30”, “31”, “33”, “ 41”, “43”, and “44” of the plaintiffs’ Complaint and refer all questions of law to this Honorable Court.

SIXTH: Deny knowledge or information sufficient to form a belief as to the allegations contained in paragraphs “15”, “16”, “18”, “19”, “22”, “23”, “24”, “25”, and “34” of the plaintiffs’ Complaint.

SEVENTH: Deny each and every allegation contained in paragraph “35”, “36”, “37”, “38”, “39”, “40”, “42”, “45”, “46”, “47”, “48”, “49”, “50”, “52”, “53”, “54”, and “56”, of the plaintiffs’ Complaint.

FIRST CAUSE OF ACTION

EIGHTH: These Answering Defendants repeat and reallege each and every denial set forth in response to paragraphs “1” through “56” of plaintiffs’ Complaint with the same force and effect as if fully set forth at length herein.

NINTH: Deny each and every allegation contained in paragraphs “62”, “63”, “64”, and “65” of the plaintiffs’ Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

TENTH: The defendant Police Officers are entitled to qualified immunity.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

ELEVENTH: The conduct of the defendant Police Officers was based upon probable cause.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

TWELFTH: Any claim for punitive damages is barred by public policy and the laws of the State of New York.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

THIRTEENTH: The defendants acted in good faith and without malice.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

FOURTEENTH: The plaintiffs' damages, if any, were caused and/or contributed to by reason of the culpable conduct of the plaintiff.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

FIFTEENTH: The plaintiffs' damages, if any, were caused and/or contributed to by reason of the unreasonable acts of the plaintiffs.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

SIXTEENTH: The plaintiffs' damages, if any, were created and caused, in whole or in part, by the plaintiffs' failure to take steps to mitigate such damages.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

SEVENTEENTH: The plaintiffs' claims do not rise to the level of a constitutional violation as against these defendants.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

EIGHTEENTH: No rights of the plaintiffs were wrongfully infringed upon as the result of any indifference to such rights by defendants.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

NINETEENTH: The individual defendants acted reasonably in light of the circumstances prevailing at the time and place set forth in plaintiffs' Complaint and in light of the actions of plaintiffs and others involved thereat.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

TWENTIETH: These Answering Defendants acted upon direction or communication with "a "fellow officer" who had reasonable suspicion to stop plaintiffs and inquire as to plaintiffs' identities, addresses, and activities.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

TWENTY-FIRST: Any award to the plaintiff for economic loss shall be reduced by the amount of economic recovery received from collateral sources.

AS AND FOR AN THIRTEENTH AFFIRMATIVE DEFENSE

TWENTY-SECOND: Brief detention of plaintiffs was lawful and authorized by New York Criminal Procedure Law.

AS AND FOR A CROSS-CLAIM AGAINST CO-DEFENDANT

ROBERT BUDDE

TWENTY-THIRD: That heretofore the Plaintiffs herein commenced an action in the Court against the Defendants, JUSTIN LARCHEVESQUE and DANIELLE LONG, to recover damages for injuries sustained as alleged in the Complaint the contents of which said Defendants beg leave to refer to upon the trial of this action as if the same were set forth herein more particularly at length.

TWENTY-FOURTH: That the Defendants JUSTIN LARCHEVESQUE and DANIELLE LONG, deny that they are guilty of fault or responsibility as alleged in the

Complaint but allege that, if the Plaintiffs recovers a verdict against these answering Defendants then these answering Defendants, on the basis of apportionment of responsibility for the alleged occurrence, is entitled to contribution and/or indemnification from Co-Defendant, ROBERT BUDDE, herein, for all or part of any verdict or judgment that the Plaintiff may recover against the aforesaid Defendants.

WHEREFORE, the Defendants, JUSTIN LARCHEVESQUE and DANIELLE LONG, demand judgment dismissing the Complaint herein, or in the event that the Plaintiffs recover from these Defendants, then and in that event, these Defendants demand judgment over and against the Co-Defendant, ROBERT BUDDE, for all or part of said verdict of judgment that the Plaintiff may recover against these Defendants, together with the costs and disbursements of this action.

DATED: White Plains, New York
February 6, 2024

Yours, etc.,

HODGES WALSH & BURKE LLP

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